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Attorneys for Plaintiffs

John Doe 1, John Doe 2, and John Doe 3

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

John Doe 1, an individual; **John Doe 2**, an individual; and **John Doe 3**, an individual;

Plaintiffs,

v.

GoDaddy.com, LLC, a Delaware corporation; **Amazon Web Services, Inc.**, a Delaware corporation; **John Roe 1**, d/b/a <ashleymadisonpowersearch.com> and <adulterysearch.com>; **John Roe 2**, d/b/a <ashleymadisoninvestigations.com>; **John Roe 3**, d/b/a <greyhatpro.com>; and **Roes 4–20**, inclusive,

Defendants.

Case No. 2:15-cv-01768-DJH

**DECLARATION OF KARL S.
KRONENBERGER IN SUPPORT
OF PLAINTIFFS' *EX PARTE*
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

1 I, Karl S. Kronenberger, declare as follows:

2 1. I am an attorney admitted to practice law in the State of California, and I am
3 admitted to appear before this Court in the above-captioned matter on a pro hac vice basis.
4 I am a partner at the law firm of Kronenberger Rosenfeld, LLP (the "Firm"), which is
5 counsel of record for Plaintiffs John Doe 1, John Doe 2, and John Doe 3. Unless
6 otherwise stated, I have personal knowledge of the facts set forth in this declaration.

7 2. As part of my firm's engagement with Plaintiffs John Doe 1, John Doe 2,
8 and John Doe 3, each Plaintiff disclosed his identity to my Firm with the understanding
9 that the Firm would seek to preserve their identities under the relevant Ninth Circuit
10 authority that allows for parties to appear pseudonymously in litigation in certain
11 circumstances. *See Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1067 (9th
12 Cir. 2000).

13 3. Before filing this lawsuit, I reviewed the Ashley Madison website located at
14 <downlow.ashleymadison.com>, the services the website purports to offer, and the process
15 for enrolling in/acquiring the website's services. Based on my review of the Ashley
16 Madison website, I determined that Ashley Madison is a dating website and social
17 networking service marketed toward people who are married or in a committed
18 relationship. Ashley Madison requires its users to submit personal information to create
19 profiles.

20 4. Each Plaintiff informed me that he previously created a profile with the
21 Ashley Madison website, at which time he provided the website with personal
22 information, including his name, postal address, and email address.

23 5. The Ashley Madison website makes several statements that it will safeguard
24 its users' personal information.

25 6. Attached hereto as **Exhibit A** is a true and correct printout from a webpage
26 within the Ashley Madison website, which displays the frequently asked question, "Will
27 'Ashley Madison Down Low' show on my credit card statement?" My office accessed and
28 printed out this webpage on September 9, 2015 from the following URL:

- <https://downlow.ashleymadison.com/faqs/billing-name>

As Exhibit A shows, the Ashley Madison website responds to this frequently asked question as follows: “No. Our billing is totally anonymous.”

7. Attached hereto as **Exhibit B** is a true and correct printout of the Ashley Madison website privacy policy, which my office accessed and printed out on September 9, 2015 from the following URL:

- <https://downlow.ashleymadison.com/privacy-policy.html>

As Exhibit B shows, the Ashley Madison website promises to safeguard its users’ personally identifiable information and only to disclose that information in limited situations.

8. Attached hereto as **Exhibit C** is a true and correct printout of a webpage within the Ashley Madison website, which displays a letter from Noel Biderman, the former President and CEO of Ashley Madison and Avid Life Media. My office accessed and printed out this webpage on September 9, 2015 from the following URL:

- <https://www.ashleymadison.com/app/public/guarantee/detailsform.p>

As Exhibit C shows, Ashley Madison promises its users that “Our website is 100% secure, completely anonymous and now with the Affair Guarantee Package, absolutely risk free. So start now and change your life today!”

9. Attached hereto as **Exhibit D** is a true and correct printout of a webpage within the Ashley Madison website’s enrollment process, which my office accessed and printed out on September 9, 2015 from the following URL:

- <https://www.ashleymadison.com/app/public/modals/agegate/modal.p>

As Exhibit D shows, the Ashley Madison website represents to its users that: “We’re 100% secure, completely anonymous and have over 40,000,000 members around the world.”

10. Attached hereto as **Exhibit E** is a true and correct printout of a webpage within the Ashley Madison website that displays an article entitled “4 Ways To Maintain Your Privacy and Discretion in Modern Day Affairs,” which my office accessed and

1 downloaded on September 9, 2015 from the following URL:

- 2 • [https://www.ashleymadison.com/blog/4-ways-to-maintain-your-privacy-and-](https://www.ashleymadison.com/blog/4-ways-to-maintain-your-privacy-and-discretion-in-modern-day-affairs/)
3 discretion-in-modern-day-affairs/

4 As Exhibit E shows, the Ashley Madison website advises users as follows:

5 We're not sure if people do this to brag or they want to make themselves
6 sound important or they're just not thinking about the issues, but when
7 you're having an affair... your affair partner doesn't need to know what
8 neighbourhood you live in or the name of the company that you work for.
9 You don't have to have completely anonymous sex if you don't want to, but
10 that doesn't mean that you should be giving out specific details about
11 yourself.

12 11. Each Plaintiff informed me that he only registered with the Ashley Madison
13 website based on his understanding that his personally identifiable information would be
14 kept confidential, and each Plaintiff informed me that he had not authorized any person to
15 release or distribute his information.

16 12. Following the highly-publicized theft of data from the Ashley Madison
17 website, various websites have appeared that allow users to search for registrants of the
18 Ashley Madison website, including the registrants' names, postal addresses, and email
19 addresses.

20 13. Four such websites are located at the following URLs:

- 21 • <adulterysearch.com>
22 • <ashleymadisonpowersearch.com>
23 • <ashleymadisoninvestigations.com>
24 • <greyhatpro.com>

25 (collectively, the "Roe Websites"). Attached hereto as **Exhibits F-I** respectively are true
26 and correct screenshots of the Roe Websites, which my office captured on September 9,
27 2015. The URL <ashleymadisonpowersearch.com> redirected me to a website located at
28 <adulterysearch.com>; thus Exhibits F and G are identical.

1 14. While the different Roe Websites provide various (and often inconsistent)
2 explanations of where their data is located and how it is searched, each Roe Website
3 enables users to search for registrants of the Ashley Madison website.

4 15. Attached hereto as **Exhibits J-M** respectively are true and correct printouts
5 of the WHOIS data for the Roe Websites, which my office obtained on September 9, 2015
6 using the Domain Tools service. As indicated by these exhibits, some of the WHOIS
7 information is “privacy protected,” meaning that all information concerning the true owner
8 and operator of the website has been concealed through the use of an unrelated privacy
9 protection service. While other information in the WHOIS data appears to contain real
10 names and addresses, it is inconclusive as to whether these names and addresses relate to
11 the true operators of the Roe Websites—i.e., the Roe Defendants—or comprise fictitious
12 identifications or merely refer to web development or registration services. Accordingly,
13 confirmation from the hosting companies is necessary to identify and name the Roe
14 Defendants.

15 16. Exhibit M shows that the website associated with <greyhatpro.com> is
16 hosted by Cloudflare Inc. (“Cloudflare”). However, a representative of Cloudflare
17 informed me that Cloudflare serves as a reverse proxy service for that website, and
18 actually, the website is hosted by Amazon Web Services.

19 17. Each Plaintiff has informed me that his name is included within the stolen
20 Ashley Madison database available through the Roe Websites.

21 18. Each Plaintiff has also informed me that Ashley Madison’s guarantees of
22 confidentiality and anonymity were crucial prerequisites to his registration with the Ashley
23 Madison website. Each Plaintiff has also informed me that the public disclosure of his use
24 of the Ashley Madison website has caused him great shame, embarrassment, and anxiety,
25 and it threatens to disrupt and seriously interfere with his family relationships.

26 19. Attached hereto as **Exhibit N** is a true and correct screenshot of the webpage
27 located at <downlow.ashleymadison.com>, which my office captured on September 9,
28 2015.

20. Attached hereto as **Exhibit O** is a true and correct screenshot of the profile registration webpage within the Ashley Madison website, which my office captured on September 9, 2015.

21. Attached hereto as **Exhibit P** is a true and correct screenshot of the paid premium profile registration webpage within the Ashley Madison website, which my office captured on September 9, 2015.

22. Attached hereto as **Exhibit Q** is a true and correct copy of an article published in the New York Times on August 19, 2015, entitled “The Ashley Madison Data Dump, Explained.” My office downloaded this article from the New York Times website on September 9, 2015.

23. Attached hereto as **Exhibit R** is a true and correct copy of an article published in the International Business Times on August 19, 2015, entitled “Ashley Madison hack: How to search adultery website data leak to see if your details are on there.” My office downloaded this article from the International Business Times website on September 10, 2015.

24. Attached hereto as **Exhibit S** is a true and correct printout of the checkout page on the GoDaddy.com, LLC (“GoDaddy”) website, located at <cart.godaddy.com/Checkout/Payment.aspx>, which my office printed out on September 10, 2015. My office encountered this checkout page after going through the process of purchasing a website hosting account through the GoDaddy website. Exhibit S shows that registrants must provide GoDaddy with several pieces of personal information before purchasing GoDaddy’s website hosting services.

25. Attached hereto as **Exhibit T** are true and correct printouts of the checkout pages from the Amazon Web Services, Inc. (“Amazon”) website, located at <aws.amazon.com>, which my office printed out on September 10, 2015. My office encountered these checkout pages after going through the process of signing up for an Amazon cloud website hosting account. Exhibit T shows that registrants must provide Amazon with several pieces of personal information before enrolling in/purchasing

1 Amazon's website hosting services.

2 26. I believe that my office has exhausted all possible non-judicial means to
3 identify the Roe Defendants. My office's technical staff reviewed all of the Roe Websites
4 along with all of the user account information associated with the Roe Websites, including
5 the archived WHOIS information and hosting data. My office also reviewed the source
6 code and meta-data associated with the Roe Websites in a further effort to identify the Roe
7 Defendants. My office also searched for and reviewed other websites ostensibly created by
8 the Roe Defendants in an effort to bootstrap unrelated information into the identification of
9 a Roe Defendant. My office spent several hours analyzing all of this data in an effort to
10 identify the Roe Defendants.

11 27. During the week of September 7, 2015, my colleague Ginny Sanderson and I
12 conferred with counsel for Amazon and GoDaddy multiple times about this lawsuit,
13 Plaintiffs' request for early discovery, and Plaintiffs' request for a temporary restraining
14 order and preliminary injunction. Among other things, Ginny and I asked whether Amazon
15 and GoDaddy would be willing to identify the registrants/operators of the Roe Websites
16 without the need for judicial process.

17 I declare under penalty of perjury under the laws of the United States of America
18 that the foregoing is true and correct and that this Declaration was executed on September
19 11, 2015, in San Francisco, California.

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21 s/ Karl S. Kronenberger
22 Karl S. Kronenberger
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